Lampert & O'Connor, P.C.

1750 K Street NW Suite 600 Washington, DC 20006

Kenneth R Boles holey@l-olaw.com RECEIVED

Tel 202/887-6230 Fax 202/887 6231

ORIGINAL SELFRAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

UC1 - 3 2003

VIA HAND DELIVERY

October 3, 2003

EX PARTE

Marlene Dortch Secretary Federal Communications Commission The Portals, TW-A325 445 12th Street, S W. Washington, D.C. 20554

> Ex Parte Presentations – Appropriate Framework for Broadband Access to the Re⁻ Internet Over Wireline Facilities -- CC Docket Nos. 02-33, 98-10, 95-20, Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services--CC Docket No.01-337_

Dear Ms. Dortch.

On October 2, 2003, Mark O'Connor of this firm and the undersigned, on behalf of EarthLink, met with Matthew Brill, Senior Legal Advisor to Commissioner Abernathy, to discuss the above-referenced proceedings.

During these meetings, EarthLink discussed its position described in documents previously filed in the above-referenced dockets, with emphasis on Bell Company pricing of wholesale ADSL service. EarthLink explained its view that Bell Companies price such service unreasonably above cost, estimating that the Bells incur only approximately \$14.00 in costs (including normal profit and joint and common costs) per month to provide a single ADSL arrangement. EarthLink also discussed its position that the Bell Companies price their retail broadband Internet access service below cost, resulting in an illegal cross-subsidy and illegal price squeeze During the meeting, EarthLink referred to and displayed the attached

Lampert & O'Connor, P.C.

Privileged and Confidential October 3, 2003 Page 2

document, which is a page from Verizon's Infospeed cost justification materials filed on April 14, 2003 as part of Verizon Transmittal No 311.

Pursuant to the Commission's Rules, eight copies of this letter/memorandum are being provided to you for inclusion in the public record in each of the above-captioned proceedings. Should you have any questions, please contact me.

Kenneth R Boley

Counsel for EarthLink, Inc.

CC Matthew Brill, Esq. Qualex

Worksheet 1

VERIZON INFOSPEED - DSL

VERIZON

Transmittal No

	ITEM	SOURCE	Weighted <u>VERIZON</u>
1	Unit Investment - Note 1	Company Study	\$668.57
2	Depreciation	Company Study	\$80.48
3	Cost of Money - Note 2	Company Study	\$20 78
4	Income Taxes	Company Study	\$13.65
5	Maintenance	Company Study	\$20.18
6	Administration	Company Study	\$7.88
7	Other Taxes	Company Study	\$3.72
8	Total Direct Cost	Ln 2Ln 7	\$146 70
9.	Annualized portion of nonrecumng cost adjusted for the cost of money(11 25%)		\$8.76
10	Other Expenses - Note 3	Company Study	\$95 04
11	Total Annual Cost	Ln 8 Ln10	\$250.50
12.	Monthly Cost	Ln 11/12	\$20 88
13	Monthly Rate		\$26 95
Ratios			
13	Annual Cost/Investment	Ln 8/Ln 1	0 22
14	Cost/Monthly Rate	Ln 12/Ln 13	0.77

Note 1 - Unit Investment include capitol required to purchase circuit equipment, central office equipment and interoffice facilities.

Note 2 - This reflects the Cost of Money component for VZ East (fBA) only The Cost of Money component for VZ West (fGTE) is included in the Depreciation cost on Line 2.

Note 3 - Other Expenses relates to the support functions performed by Network and Marketing, Research and Development, Procurement, and Information Systems